

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**DEREK A HOFFMAN**

Claimant

**APPEAL NO. 17A-UI-07087-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BORDERLAND CONSTRUCTION**

Employer

**OC: 01/15/17**

**Claimant: Appellant (2)**

Iowa Code Section 96.5(1) – Lay-off

**STATEMENT OF THE CASE:**

Derek Hoffman filed a timely appeal from the July 7, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the claims deputy's conclusion that Mr. Hoffman voluntarily quit on May 11, 2017 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 31, 2017. Mr. Hoffman participated and presented additional testimony through Susan Blanco. Pat Eggman represented the employer and presented additional testimony through Charles "C.J." Prettyman. Exhibits A and B were received into evidence. The administrative law judge took official notice of the Google Maps map of southern Arizona available at [www.google.com](http://www.google.com).

**ISSUE:**

Whether Mr. Hoffman separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Derek Hoffman was employed by Borderland Construction as a full-time heavy equipment operator. Mr. Hoffman began the employment on March 9, 2017 and last performed work for the employer on May 11, 2017. Pat Eggman, General Superintendent, was Mr. Hoffman's immediate supervisor. Borderland Construction is headquartered in Tucson, Arizona. Mr. Hoffman resided in Vail, a suburb of Tucson, throughout the employment. At the start of the employment, the employer assigned Mr. Hoffman to a project in the Tucson area. Then the employer assigned Mr. Hoffman to a project in Naco, Arizona for about a month. Naco is on the U.S.-Mexican border. On May 11, the Naco project foreman/supervisor told Mr. Hoffman that Mr. Hoffman's work was done at Naco. The project foreman told Mr. Hoffman that Mr. Eggman would be in touch with Mr. Hoffman or that Mr. Hoffman could get in touch with Mr. Eggman. Mr. Hoffman waited for a call from Mr. Eggman. When no call came, Mr. Hoffman called Mr. Eggman and asked where he was supposed to go next. Mr. Eggman told Mr. Hoffman that the company was moving equipment and that he would get back to Mr. Hoffman the next morning. Mr. Hoffman continued to check in with the employer, but the employer did not provide him with additional work. The employer has never recalled Mr. Hoffman to the employment. Mr. Hoffman finally

gave up on getting further work with the employer and applied for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Administrative Code rule 871-24.1(113) provides, in relevant part, as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See Iowa Administrative Code rule 871-24.25.

The weight of the evidence in the record indicates that the employer laid off Mr. Hoffman effective May 11, 2017 and has never recalled Mr. Hoffman from the employment. The layoff would not disqualify Mr. Hoffman for benefits. Mr. Hoffman is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be assessed for benefits.

**DECISION:**

The July 7, 2017, reference 01, decision is reversed. The claimant was laid off effective May 11, 2017. The claimant is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs